

§ 653.109

20 CFR Ch. V (4–1–11 Edition)

(p) The State MSFW Monitor Advocate shall ensure that JS outreach activities are reviewed periodically at day-haul sites at which these activities are conducted. Complete records of such visits shall be kept. The State MSFW Monitor Advocate shall ensure that local offices and the State Administrator are advised of any deficiencies.

(q) The State MSFW Monitor Advocate shall review on at least a quarterly basis all statistical and other MSFW-related data reported by significant MSFW local offices in order (1) to determine the extent to which the State agency has complied with regulations at § 653.100 *et seq.*, and (2) to identify the areas of inadequate compliance.

(r) The State MSFW Monitor Advocate shall have full access to all statistical and other MSFW-related information gathered by State agencies and local offices and may interview State and local office staffs with respect to reporting methods. Subsequent to each review, the State MSFW Monitor Advocate shall consult, as necessary, with State and local offices and provide technical assistance to ensure accurate reporting.

(s) The State MSFW Monitor Advocate shall review and comment on proposed State JS directives, manuals, and operating instructions relating to MSFWs and shall ensure (1) that they accurately reflect the requirements of the regulations, and (2) that they are clear and workable. The State MSFW Monitor Advocate also shall explain and make available at the requestor's cost, pertinent directives and procedures to employers, employer organizations, farmworkers, farmworker organizations and other parties expressing an interest in a readily identifiable directive or procedure issued and receive suggestions on how these documents can be improved.

(t) The State MSFW Monitor Advocate shall prepare for the State Administrator an annual summary of JS services to MSFWs within his/her State based on statistical data and his/her reviews and activities set forth in these regulations. The summary shall include an assessment of the State agency's activities related to MSFWs such as those covered in the State agency's

PBP, outreach plan, and affirmative action plan, and the other matters with respect to which the State MSFW Monitor Advocate has responsibilities under these regulations. A copy of this summary shall be forwarded to the Regional Administrator by the State Administrator.

(Approved by the Office of Management and Budget under control number 1205-0039)

(Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[45 FR 39459, June 10, 1980, as amended at 47 FR 145, Jan. 5, 1982; 71 FR 35518, June 21, 2006]

§ 653.109 Data collection.

State agencies shall: (a) Collect data on MSFWs, including data on the number (1) contacted through outreach activities, (2) registering for service, (3) referred to agricultural jobs, (4) referred to non-agricultural jobs, (5) placed in agricultural jobs, (6) placed in non-agricultural jobs, (7) referred to training, (8) receiving counseling, (9) receiving job development, (10) receiving testing, (11) referred to supportive service, (12) receiving some service, (13) placed according to wage rates, and (14) placed according to duration. The State agencies also shall collect data on agricultural clearance orders (including field checks), MSFW complaints, and monitoring activities, as directed by ETA. These data shall be collected in accordance with applicable ETA Reports and Guidance Letters.

(b) Collect data on the number of MSFWs who were served as to whether they were male, female, black, Hispanic, American Indian, Asian, or Pacific Islander.

(c) Provide necessary training to State agency, including local office personnel, to assure accurate reporting of data;

(d) Collect and submit to ETA as directed by ETA, data on MSFWs required by the PBP, and

(e) Periodically collect and verify data required under this subsection, take necessary steps to ensure its validity, and collect and submit data for verification to ETA, as directed by ETA; and

Employment and Training Administration, Labor

§ 653.111

(f) Submit additional reports to the ETA at such times and containing such items as ETA directs.

(Approved by the Office of Management and Budget under control number 1205-0039)

(Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*))

[45 FR 39459, June 10, 1980, as amended at 47 FR 145, Jan. 5, 1982; 71 FR 35518, June 21, 2006]

§ 653.110 Disclosure of data.

(a) State agencies shall disclose to the public, on written request, in conformance with applicable State and Federal law, the data collected by State and local offices pursuant to § 653.109, if possible within 10 working days after receipt of the request.

(b) If a request for data held by a State agency is made to the ETA national or regional office, the ETA shall forward the request to the State agency for response.

(c) If the requested data cannot be supplied within 10 working days of receipt by the State agency of the request, the State agency shall respond to the requestor in writing, giving the reason for the delay and specifying the date by which it expects to be able to comply.

(d) State agency intra-agency memoranda and reports (or parts thereof) and memoranda and reports (or parts thereof) between the State agency and the ETA, however, to the extent that they contain statements of opinion rather than facts, may be withheld from public disclosure provided this reason for withholding is given to the requestor in writing. Similarly, documents or parts thereof, which, if disclosed, would constitute an unwarranted invasion of personal or employer privacy, may also be withheld provided the reason is given to the requestor in writing.

§ 653.111 State agency staffing requirements.

(a) On a statewide basis, staff representative of the racial and ethnic characteristics in the work force shall be distributed in substantially the same proportion among (1) all "job groups" (as that term is defined by the Office of Federal Contract Compliance

Programs), and (2) all offices in the plan(s).

(b)(1) As part of the PBP, each State agency shall develop and submit to the Regional Administrator affirmative action plans for all significant local offices within its jurisdiction (which, for the purposes of this provision, means those local offices representing the top 20 per cent of MSFW activity nationally). These affirmative action plans shall include goals and timetables and shall ensure that sufficient numbers of qualified, permanent minority staff are hired. Where qualified minority applicants are not available to be hired as permanent staff, qualified minority part-time, provisional, or temporary staff shall be hired in accordance with State merit system procedures, where applicable. These affirmative action plans shall be prepared on an individual office basis.

(2) The affirmative action plans shall include an analysis of the racial and ethnic characteristics of the work force in the local office service area. To determine the "work force" for the purpose of this paragraph, the State agency shall include the racial and ethnic characteristics of any MSFW population which is not a part of the permanent work force by computing an estimate of the total work years MSFWs collectively spend in the area and including a number of workers equivalent to this estimate as part of the permanent work force. This computation shall be made by calculating the average length of time, as a fractional part of a year, MSFWs stay in the area and then multiplying this figure by the total estimated MSFW population in the area during the previous year.

(3) The affirmative action plan also shall include an analysis of the local office staffing characteristics. The plan shall provide a comparison between the characteristics of the staff and the work force and determine if the composition of the local office staff(s) is representative of the racial and ethnic characteristics of the work force in the local office service area(s).

(4) If the staff under-represents any of these characteristics, the State agency shall establish a staffing goal at a level equivalent to the percentage of the characteristics in the work force